

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

IN THE MATTER OF:	)	Case No: B-0981211 C-13D
	)	
<b>LINDA B. BIVINS,</b>	)	
	)	
Debtor(s)	)	
_____	)	

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee ("Trustee") and respectfully objects to confirmation of the Debtor's plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtor filed a petition under Title 11 of the United States Code, Chapter 13, on July 22, 2009, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On July 22, 2009, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The Debtor's plan proposes monthly payments of \$412.00 for a period of at least 36 months. There is no estimated return to general unsecured creditors. There is unsecured debt listed in Schedule F of approximately \$20,566.34.
5. According to the Debtor's Statement of Current Monthly Income ("CMI"), filed with the petition as Official Form B22C, the Debtor has annualized current monthly income that is less than the applicable median income for North Carolina; therefore, disposable income is determined, in part, by reference to the deductions listed in Schedules I and J.
6. The Trustee objects to confirmation of the plan in that the Debtor may not be devoting all available monthly disposable income to unsecured creditors. In Schedule J, the Debtor lists a deduction of \$175.00 for charitable contributions; however, the Debtor has provided the Trustee with the 2008 federal tax return showing charitable giving for the entire year of only \$815.00, or \$67.92 per

month. Based on the 2008 tax return, the Trustee challenges the deduction listed in Schedule J for charitable contributions of \$175.00 per month.

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtor's plan not be confirmed in that the plan does not comply with the provisions of the Bankruptcy Code, specifically 11 U.S.C. §1325(b), and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. For such other and further relief as the Court may deem just or proper.

This the 13<sup>th</sup> day of October, 2009.

s/Benjamin E. Lovell  
Benjamin E. Lovell  
Attorney for the Trustee  
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CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Linda Bivins, 106 Murray St., Hillsborough, NC 27278, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 13th day of October, 2009.

s/Benjamin E. Lovell  
Benjamin E. Lovell, Esq.  
Attorney for the Standing Trustee